REASONED CONCURRING OPINION OF JUDGE
HERNÁN SALGADO PESANTES

In the Myrna Mack Chang Case, I have concurred with my colleagues concerning this judgment although my reasoning shows another criterion that I would like to record.

1. During processing of this case, the State took several stands under the common denominator of "institutional responsibility", a situation that was taking place since the Commission. At the moment of the public hearing before the Court, the State did not accept that its position showed acquiescence, this happened later upon conclusion of the hearing.

2. In this context and pursuant to Article 52(2) of the Rules of Procedure. "*the Court, after hearing the opinions of the parties, shall decide about the appropriateness of the acquiescence and its legal effects."* In my personal opinion, the Court should deem the delayed State acquiescence inapplicable.

3. Although the acquiescence can take place during any stage of the trial, even before delivering judgment, the acquiescence shall be a useful instrument for the method and promptness of the process, and above all, with regard to human rights it should serve the higher interests thereof. Therefore, Article 54 of the Rules of Procedure stipulates that: "*The Court, considering its responsibilities of protecting human rights, can decide that the discussion of the case should go on, despite the conditions indicated in the preceding articles."*

4. I think the *sub judice* case did not contribute to the method and promptness of the process. Upon conclusion of the hearing and the taking of witnesses' statements and of the expert opinion, the existing evidence was enhanced and turned out to be adequate so that the Court judges –with full certainty - rule about this case.

5. The acquiescence under discussion does not help the cause of human rights because the testimonial evidence provides facts the State did not want to accept in its previous procedure, both before the Commission and the Court. These facts had to be recorded in the Court judgment, as agreed upon, and they could not be ignored due to the State delayed acquiescence.

6. In conclusion, the acquiescence by a State should be consequent with the protection of human rights and in accordance with the principle of procedural cooperation governing party conduct before bodies of the Inter-American system for the protection of human rights. Given these conditions before the Court, it would not be necessary to proceed with the merits of the case or adduce testimonial evidence and evidence of opinion. As it is known, this situation has been regularly taking place in the practice of the Court.

7. Finally, and even though it does not concern this case, I would like to express my conviction that for a friendly solution before the Court, the only viable solution, in accordance with the superior interest of human rights, is a previous declaration of acquiescence by the State. There is no other choice.

Hernán Salgado-Pesantes
Judge

Manuel E. Ventura-Robles
Secretary